IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHH.G.)

WRIT PETITION NO. 865/ /2001.

PETITIONERS

1. Ghurau aged 36 years son of Ghasia Urao (aboriginal Tribe) resident of Patari Tahsil and Distt.Korba.

2. Ghurwa son of 30 years son of Ghasia Urao R/o Patari Tah.& Distt.Korba

Both through Chamelibai (sister).

3. Chamelibai aged 25 years daughter of Ghasia Urao R/o Patari Tahsil and Distt.Korba.

4. Firatram aged 38 years son of Chaitram resident of Dhelwadih Tahsil and Distt.Korba.

5. Kriparam aged 35 years son of Chaitram resident of Dhelwadih Tahsil and Distt.Korba.

6. Bundaribai aged 32 years daughter of Chaitram R/o Dhelwadih Tahsil and Distt.Korba.

.... They are all writ - petitioners.

VERSUS

RESPONDENTS

1. Mehtar son of Kartikram Kanwar (aboriginal Tribe) resident of Tilkeja Tahsil and Distt.Korba.

2. Maheshram son of Kartikram Kanwar (aboriginal Tribe) R/o Tilkeja Tahsil and Distt.Korba.

P.R. No. 864/01 Presented on 5/11/01 at 4.30 p.m.

RECEIVED COPY.

CLERK TO A.G. BILASPUR

3. Maheshprasad Sharma son of Chandrika Prasad resident of Patari Tahsil and Distt.Korba.
4. Jaitram son of not known resident of Tilkeja Tah. & Distt.Korba.
5. Sub Divisional Officer, Korba.
6. State of Chhattisgarh Through:- Collector Korba.

.... They are all Respondents.

PETITION UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No. 865/01 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	20.02.2004 Heard Shri Shreekumar Agrawal, Senior Advocate for the petitioners. The petitioners have preferred this writ petition under Article 226/227 of the Constitution of India, being aggrieved by the order dated 30th October, 2000 (Annexure P-1), passed by respondent No.4 Sub Divisional Officer, Korba, under Section 170 (B) of the M.P. land Revenue Code, 1959, whereby the learned S.D.O. allowed the application of respondents 1 & 2 cancelling the registered sale deed executed on 05.03.1976. The petitioners have directly filed this writ petition before this Court, whereas, as per Section 44 of the Chhattisgarh Land Revenue Code, 1959, the petitioners had an alternative remedy to file an appeal before the Collector against the impugned order, which the petitioners have not chosen to file. Learned counsel for the petitioners submits that since in this matter the transfer was made in favour of aboriginal, therefore, S.D.O. had no jurisdiction to pass such an order and he passed such order without jurisdiction, therefore, the petitioners have preferred this writ petition before this Court. But this argument of the learned counsel for the petitioners is not tenable for the reason that the S.D.O. had jurisdiction	

XI-HC-22

(45)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No. 865/01 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -02-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

to pass an order under Section 170 (B), if the same is illegal even then the petitioners were entitled to file an appeal before the Collector. It is not the case where the S.D.O. had no jurisdiction to entertain the application. The S.D.O. had definitely the jurisdiction to entertain the application, but if he had passed any order contrary to law, then against that order, the petitioners had remedy to file an appeal before the Collector.

In view of the above, learned counsel submits that the petitioners may be allowed to withdraw this writ petition with liberty to file an appeal before the Collector, and since the petitioners had litigated before this Court they may have the benefit of still having limitation for approaching the Collector in appeal.

In view of the submissions made by the learned counsel for the petitioners, the petition is dismissed as withdrawn with liberty to file an appeal before the Collector and if the petitioners file an appeal before the Collector within 30 days, from today, then the appeal may be considered as if it is filed within the period of limitation.

Parties are entitled for certified copy of this order.

Sd/-
L.C.BHADOO
Judge

Soma

[पीछे देखिये